2026:DHC:3005

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 1st April 2026*

\+ **MAC.APP. 145/2023**

SH JAMSHAID ALI .....Appellant

Through: Mr. Ritik Singh, Mr. S.N. Parashar, Advocates.

versus

SH MOOHAMMAD & ORS. .....Respondents

Through: Ms. Mouli Sharma, Advocate for Ms. Suman Bagga, Advocate for Respondent No.3/Insurance Company.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of compensation awarded *vide* award dated 10th October 2022 passed by the Motor Accident Claims Tribunal, South-West District, Dwarka Courts, New Delhi ('***MACT/Tribunal***') in MACT No.1378/2017 of *Rs.26,87,390*/- along with interest @ *9%* per annum.

2. *Mr. Ritik Singh*, counsel for the appellant/injured/claimant, seeks enhancement on the ground that the benchmark income of the injured, taken as the minimum wages of a skilled worker at *Rs. 9,118/-* per month, was not appropriate, considering that the injured/claimant had stated that he was earning *Rs. 20,000/- per month* as a transport vehicle driver and had placed his driving licence on record, which was not disputed by the Insurance

Company. He places reliance on the decision of the Supreme Court in ***Chandra @ Chanda @ Chandraram v. Mukesh Kumar Yadav*** 2021 INSC 593, wherein the Supreme Court observed that some guesswork is necessary in the absence of documentary evidence and assessed the benchmark income of a driver of a heavy vehicle at *Rs. 15,000/- per month*.

3. *Mr. Ritik Singh* also claims that considering that functional disability was considered at 100% based on 90% permanent disability in relation to the lower limb, the non-pecuniary compensation was also inadequate.

4. *Ms. Mouli Sharma*, counsel for the Insurance Company relies on ***Shabana & Ors. v Raj Pal Kheri & Ors***. 2026:DHC:2184 to state that this Court has already awarded *Rs.10,000*/- in a similar matter to a driver of a commercial vehicle.

5. The Court has perused the driving licence of the injured and has also considered the deposition of **PW1,** the injured, wherein he has categorically stated that he was working as a driver of commercial vehicle and was earning *Rs. 20,000/- per month*. The said testimony has remained unshaken, as no contrary suggestion has been made in his cross-examination as regards his occupation.

6. In these circumstances, and in the absence of documentary proof of income, some guesswork is required to be made. Considering the nature of the vocation of the injured, who was engaged as a driver of a commercial vehicle, it can be presumed that he was earning not less than *Rs. 15,000/-* per month. Accordingly, this Court deems it fit to take the monthly income of the injured at *Rs. 15,000/- per month*.

7. As regards the issue of inadequate compensation for non-pecuniary damages, reliance may be placed on the judgment of the Supreme Court in

K.S. Muralidhar v. R. Subbulakshmi and Anr. 2024 SCC Online SC 3385, observed that '*pain and suffering*' cannot be captured by any fixed definition, drawing on legal, medical, and philosophical sources to emphasise its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. The Court stressed that in cases of severe or *100%* disability, compensation must meaningfully reflect the permanent rupture in the victim's physical, emotional, and existential well-being. Relevant paragraphs are extracted as under:

> "***13.*** *While acknowledging that 'pain and suffering', as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.*
> *13.1 The entry recording the term 'pain and suffering' in P. Ramanatha Iyer's Advanced Law Lexicon*[9] *reads as under:—*
> *"**Pain and suffering.** The term 'Pain and suffering' mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.*
> *This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The, [1900] A.C. 113, 116]"*
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> *13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in Heil v. Rankin*[16]*, as referred to in Attorney General of St. Helenav. AB*[17] *as under:—*

"23. This principle of 'full compensation' applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in Andrews v. Grand & Toy Alberta Ltd., 83 DLR (3d) 452, 475-476, <u>this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of 'full compensation' for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial.</u> Lord Pearce expressed it well in H West & Son Ltd. v. Shephard, [1964] A.C. 326 when he said:

'<u>The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum</u>. It does not look beyond the judgment to the spending of the damages.'

24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in Wells v. Wells, [1999] A.C. 345, 394H when he said: 'One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant."

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***14.** In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:—*

14.1 In R.D Hattangadi v. Pest Control (India) (P) Ltd. It was observed:

*"**17.** The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are*

claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for 'pain and suffering' and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads "'pain and suffering'" and "Loss of amenities of life".

14.2 This Judgment was recently referred to by this Court in Sidram v. United India Insurance Company Ltd reference was also made to Karnataka SRTC v. Mahadeva Shetty (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned…"

(emphasis added)

8. In light of the observations of the Supreme Court in ***K.S. Muralidhar*** (*supra*), this Court is of the opinion, the grant of *Rs. 1,00,000/-*towards *pain and suffering* is inadequate. The Supreme Court has consistently adopted a liberal and realistic approach in such cases, as is evident from the judgment in ***Mohd. Sabeer v. U.P. SRTC***, (2023) 20 SCC 774, wherein, in a situation involving amputation, the Supreme Court awarded *Rs. 2,00,000/-* towards *pain and suffering, disfigurement*, and *loss of amenities of life*. The Supreme Court observed as under:

> "*Non-pecuniary compensation*
> *24… this Court is of the opinion that the compensation provided by the High Court for non-pecuniary heads is inadequate.*
> *25. In R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] dealing with the different heads of compensation in injury cases this Court held that : (SCC p. 556, para 9)*
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> > *"9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; <u>whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations</u>. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. <u>So far as non-pecuniary damages are concerned, they may include : (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of</u>*

<u>amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”</u>

26. In light of the above decision of this Court and the facts and circumstances of the case at hand, the compensation to be awarded is as follows:

I. Compensation for pain and suffering — Rs 2,00,000

II. Compensation for loss of amenities of life — Rs 2,00,000

III. Compensation for disability and disfigurement — Rs 2,00,000

Conclusion

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28. It is almost universally seen that persons from marginalised backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalised sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than not compounds to such discrimination. <u>In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to at the very least restore the claimant as best as possible to the position he was in before the occurrence of the disability, and to do so must award compensation in a liberal manner.</u>

29. While no material compensation can completely negate the trauma and suffering that the injured and his family faces, the law only knows the language of monetary compensation in such cases. It then becomes the duty of the court to translate the provisions of monetary compensation into a fabrication that helps the injured and his family in coping with their loss.”

(emphasis supplied)

9. Considering the observations of the Supreme Court and the fact that the present case involves amputation and the injured was only 35 years of age and was working as a driver, the compensation awarded towards *pain and suffering*, *loss of amenities of life* and *disfigurement* is inadequate; therefore, *Rs. 2,00,000/-* is awarded under each of the heads and the same would be in line with the principles of just and reasonable compensation.

10. However, in view of principle laid down in ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, compensation granted towards mental and physical shock ought to be deleted since it stands subsumed under the category of *pain and suffering*.

11. Accordingly, the revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
	PECUNIARY LOSS		
1	Expenditure on Medical Bills (A)	1,00,000/-	1,00,000/-
2	Expenditure on conveyance, special diet and attendant charges (B)	25,000/-	25,000/-
3	Income of injured (C)	Rs. 9,118/-	Rs. 15,000/-
4	Add: Future prospects (D)	40% (Rs. 12,765.20)	40% (Rs. 21,000)
5	Multiplier (E)	16	16
6	Functional disability (F)	100%	100%
7	Loss of income/Wages (G)	Rs. 36,472/- (Rs. 9,118/- x 4)	Rs. 60,000/- (Rs. 15,000/- x 4)
8	Loss of future income/future earnings [(C+D) x 12 x E x F] = (H)	Rs.24,50,918/-	Rs. 40,32,000/-
	NON-PECUNIARY LOSS		
9	Pain and suffering (I)	10,000/-	Rs. 2,00,000/-

10	Mental and Physical shock (J)	5,000/-	NIL
11	Conveyance and special diet (K)	Rs. 10,000 and Rs. 10,000/- = Rs. 20,000/-	Rs. 10,000 and Rs. 10,000/- = Rs. 20,000/-
12	Loss of amenities of life (L)	50,000/-	Rs.2,00,000/-
13	Disfiguration (M)	10,000/-	Rs.2,00,000/-
14	Loss of marriage prospects (N)	NIL	NIL
15	Total compensation (A + B + G + H + I + J+ K + L+M+N) = O	**Rs.26,87,390/-**	**Rs. 48,37,000/-**
16	Interest awarded	9% per annum	9% per annum

12. Accordingly, the compensation is enhanced by *Rs. 21,49,610/-*.

13. Enhanced compensation, along with *9%* interest per annum from date of filing DAR will be deposited before the MACT within a period of six weeks. The enhanced compensation shall be released to the claimant as per the Scheme given in the impugned award.

14. Further, it is directed that a lump sum amount of *Rs. 2,00,000/-* shall be released to the claimant within a period of two weeks thereafter. The remaining amount, along with the accrued interest, shall be kept in Fixed Deposit Receipts (***FDRs***) as per the scheme of the impugned award.

15. Accordingly, the appeal stands disposed of in above terms. Pending applications, if any, be refunded to the appellant.

16. Copy of this judgment be sent to MACT and the concerned bank.

17. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

APRIL 1, 2026/ak/bp